

TAXATION OF U. STATES PROPERTY ILLEGAL.

A practice has for many years prevailed in many of the States of levying taxes on the property of the General Government, used in its ordinary functions and operations, such as Navy Yards, Armories, &c.

This practice having been attempted recently by certain tax collectors of the State of Pennsylvania, and demands having been made on the officers in command of the several military establishments in that State, the Officers were directed to refuse payment, and to enjoin the process instituted to enforce it. A copy of the Opinion recently delivered by Judge GRIER, in the Circuit Court of the Eastern District of Pennsylvania, upon this point, having reached our hands, we are induced, by its great interest to almost all the branches of the Government making it important that it should be generally known, to place it before our readers.

Opinion of Judge GRIER on the Right of the State to Tax United States Property.

The United States vs. George Weiss.  
In Circuit Court U. S. Eastern District of Pennsylvania.  
Bill for an Injunction.

The United States have filed a bill for an injunction against George Weiss, the respondent, a collector of taxes in Cumberland county, who has seized upon the property of the Government and her officers, intending to sell it for the purpose of levying certain taxes assessed against "the United States Garrison" or barracks near the city of Gettysburg, Pa. The bill prays that the complainant should have its remedy, (if entitled to say), in the form of action, rather than by seizure of trespass, no question has been made as to its propriety.

There are no facts in dispute in the case, and it has therefore been submitted on the bill and answer. The respondent presented the following assessment or bill of taxes to the officers of the garrison:

"United States Garrison Tax."  
County tax.....\$62 00  
State tax..... 93 00  
Total.....\$155 00  
Cash paid, June 13, 1861.

On the refusal of payment the respondent proceeded to levy and seize upon certain property of the Government and the military officers then occupying the garrison or barracks.

The three following questions have been propounded by the learned counsel, as properly raised by the case before us:

I. Has the State power to tax the forts, navy yards, custom houses, mint, garrisons, or other property of the United States used for the necessary purposes and operations of Government?

II. Granting the State has such power or right, can it be enforced by levying and seizing the personal property of the United States?

III. Has the State of Pennsylvania authorized the assessment of taxes on such property?

Ist. The first question here proposed has been the subject of much discussion of late. It has been twice argued before the Supreme Court of the United States, but remains undecided; and, as the present case is, I desire to remain undecided by any opinion expressed by me, till it shall again be brought before the Supreme Court and fully argued.

It has been more than once decided "that State Governments have no right to tax any of the constitutional means employed by the Government of the Union to execute its constitutional powers."—(See McCullough vs. Maryland, 4 Wheaton, 316; Warren vs. The City Council of Charleston, 10 Peters, 440.) That the mint, navy yards, armories, &c. are "means or instruments" of this description cannot be denied. It follows necessarily that a tax imposed upon these instruments or means as such by a State would be illegal. But it is contended that, although a State cannot tax a "mint or navy yard" of the United States, *quo nomine*, yet that, where the jurisdiction over the land on which they are erected has not been ceded, it still remains to the State, and that the payment of such tax may be enforced by distress or seizure of the personal property of the United States Government or its officers.

2d. "The Government of the Union is emphatically and truly a Government of the people. In form and in substance it emanates from them. Its powers are granted by them, and are to be executed directly on them and for their benefit."—and "the Government, though limited in its powers, is supreme within its sphere of action." If the several powers entrusted to and exercised by the United States and State Governments were executed by one sovereign or government, it would be an absurdity to tax the public property, or means used to execute one of its powers or functions to support another. What would be gained by taxing a mint or fortification, built and sustained by public taxes, in order to build a custom-house or a court-house, or to support a public school and sustained by the same means? Is it more reasonable that such a conflict of taxation should exist where the people have distributed these sovereign powers to two distinct Governments? But suppose it to exist, could it be tolerated that either of these sovereigns, to whom these powers were entrusted, should treat the other as a mere private corporation? That one Government should exercise its powers over the public property and possession and use by the other? That the United States should tax the State-house at Harrisburg, and seize the furniture if it were in use by the Legislature of Pennsylvania? Or that a county or township tax collector should levy on the cannon in a fort, the bullion in the mint, or the soldiers' horse and arms? What an absurd conflict would thus be exhibited, where one arm of power exercised for the benefit of the people, should thus be employed to paralyze another?

Whatever, therefore, may be the power and right of a State to tax all land within her territory, and make it contribute to the burdens of the State, it cannot enforce the payment of them from the United States, by seizing the personal property or means used by the General Government in performance of the duties and exercise of the powers of the public property. To the extent of the powers granted the United States are sovereign, and cannot be treated by the States as a mere corporation, a citizen or a stranger, and subjected to distress and execution for claims real or pretended, by every county and township officer. If the State of Pennsylvania has any just demands against the Government of the United States for the use of her soil, revenue may be had to Congress, to whom an appeal for justice can always be successfully made, especially when the appellant is a State of the Union. There is no necessity for this humiliating spectacle of petty officers of a State distraining or levying on the public property of the General Government, and treating it as a petty corporation or an insolvent or absconding debtor.

For this reason, therefore, it would feel justified in enforcing the injunction in this case to be made perpetual, but we deem it proper to vindicate the State of Pennsylvania from the charge of having authorized any of her officers to assume the power which the respondent claims a right to execute.

3d. The fact that the Legislature of Pennsylvania ever intended to authorize the taxation of the law acres of ground occupied and used by the Government of the United States (for mint, custom-house, navy yard, armory, and barracks) has heretofore been assumed, but to my mind has not been satisfactorily proved. It is true, it will not suffice for me to say that I do not believe (as I do not) that such an intention ever entered into the mind of any member of the Legislature who enacted these laws. The intention of the law-maker is to be discovered only from the face of the statute, and by a fair and liberal construction of its terms.

The act of 15th of April, 1834, for laying county rates and levies, and that of 29th of April, 1844, which make provision for a State tax, do not differ very materially in their essential objects of taxation. But, as the latter is evidently intended to be the most stringent and comprehensive, it will be sufficient if we can show that it does not, on a proper construction of its language, necessarily intend to include under the United States for the public benefit, as means of executing the powers entrusted to them by the people.

The terms of this act are: "All real estate, to wit, houses, lands, lots of ground and ground rents, mills, manufactories of all kinds, furnaces, forges, blast-furnaces, distilleries, sugar-houses, malt-houses, breweries, tin-yards, fisheries, and ferries, wharves, and all other real estate not exempt by law from taxation."

Now, it cannot be denied that the mint, the navy yard, garrison, &c. are "real estate," and that the word "land" in its widest legal acceptance might include them. But I need not cite cases to show the injustice and absurdity that would otherwise result from construing every word of a statute in its absolute or largest sense; or that the preamble, the subject-matter, the object, aim, policy, and spirit of the whole act should be sought for, and the letter of any particular section or sentence made subservient to them.

It is among the most common rules of construction that "when statutes are made there are some things which are exempted *officio* from the provisions thereof, though not expressly mentioned." (Powers, 13, b.)

When general terms are used, and the statute enumerates the particulars under a *videlicet*, it shows the intention of the legislator to limit the comprehensiveness of the general phraseology to the particulars enumerated and those *quasi* general.

Thus we find that the whole phrase, "mint, navy yard, garrison," is used to reverse the *prima facie* presumption of this act to raise a revenue for the public benefit, and that a tax on public property, such as houses, lands, lots of ground, poor houses, ferries, armories, &c. The terms "all other real estate" should therefore be construed to mean all other real estate *quasi* general of that enumerated. I need not repeat the enumeration to show that every article is in *prima facie* property, and that as an example of property, such as houses, lands, lots of ground, poor houses, ferries, armories, &c. are never specially mentioned or excepted in any act imposing taxes, because the absurdity of such an application of their terms could never be anticipated.

The assessor of Dauphin county demands a county poor, or road tax on the public buildings at Harrisburg: "Harrisburg, a public building, or Philadelphia, ever been built for State, city, or county purposes? Do the county jails and court-houses pay taxes for the support of the borough within which they are situated? Yet these are all included in the comprehensive term "real estate," but they are exempted or free from the provisions of the statute by the law of reason, and because they would be subject to suppose that they are to be taxed for the public benefit, and that the purpose should be construed to embrace property already dedicated to public use, or purchased or paid for by public money.

The cases of *Piper vs. Singer*, (Serg. and Rawlin, 851,) and *Schuyllkill bridge vs. Frailly*, (13 S. & R. 424,) are authorities to show that these general terms in the law refer only to private property, and that public buildings, such as the county jails, court-houses and bridges are not subjects of taxation, though not specially exempted.

The people of Pennsylvania are also citizens of the United States. The Government of the United States is no alien here; it cannot be ignored or treated as a mere corporation. The mint, the navy yard, &c. are means to execute the property and defend the property and persons of the people. State laws, laying taxes on private property for public use, should not, from mere general or vague phraseology, be construed to include the property of the United States. A State ought not to be presumed to intend the exercise of a doubtful right, unless such intention is plainly set forth. When an officer claims a right under a statute, it is his duty to show that the United States, to seize the horses and arms of her officers and soldiers, (as in this case,) he should be sure that he has the authority of the State for so doing.

I am pleased to find that the Legislature of Pennsylvania has not enumerated either the mint, navy yard, armory, or any other property held for the public benefit of the United States, and has therefore not enacted an injunction to authorize officers to interfere with the General Government in the exercise of its constitutional powers. If it is the will of the people of Pennsylvania to insist upon the *double* right of taxing the few acres of land used by the General Government for the public benefit, it will be easy for their Legislature to express such intention in plain language which cannot be misunderstood. And when the question is, *quo nomine*, it will be to be decided by the people, the mint, county, city, and township assessors and collectors should refrain from making demands which they have no clear right to make, and certainly none to enforce, in the manner attempted by the respondent in this case.

The people of Pennsylvania feel that the location of the mint, navy yard, &c. within their territory is a benefit, and that they have a right to tax it. But the mint, navy yard, &c. are not to be taxed by the State, but by the General Government. For all that can be gained by the exercise of this power, it will hardly be worth while to contest the right or insist on a demand which implies a power, if not a wish, to expend these institutions from her borders. Let the injunction be made perpetual.

By the Court.

PARIS CUSTOMS.

We take the following paragraphs from an interesting Paris letter in the St. Louis Republican:

I will tell you how Easter week is kept in Paris. First, though, I must say something about Longchamps, or the *promenade de Longchamps*, as the French call it. This fete, which consists in nothing more than riding and driving up one side of the long avenue of the Champs Elysees and down the other, takes place annually on Holy Thursday and Good Friday. It dates from Louis XV, and its origin is as follows: An ancient abbey called Longchamps, founded in 1261 by Isabelle of France, sister of St. Louis, existed near the Maillois gate, and was so humble that few persons were known of its existence. Suddenly two sisters, the daughters of a noble family, sought refuge in the abbey against the cares and temptations of the world. These young ladies introduced into the abbey the taste and art of music. They founded a chapel in which every year during Passion Week sacred concerts were given, and the music is described as having been almost celestial. All Paris flocked to these concerts, and every year they became more and more popular. At last came the Revolution of '93, and the convents were suppressed. After the 18th brumaire, the police, in order to amuse the public and distract attention, tried to revive, under a new pretext, the ancient musical and religious pilgrimages to Longchamps. They hired carriages to drive along the Champs Elysees, the occupation being to exercise carriages and amusements. And thus the start was given to the annual procession of carriages and horsemen, extending from the Place de la Concorde to the Bois de Boulogne, serves as a pretext for the display of spring fashions, and eccentricities which would be tolerated nowhere else.

This year the weather was unusually warm, and the display brilliant. The great people of Paris, the aristocracy, the nobles, and the bourgeoisie, all came to the fete, and no carriage is allowed to stop or leave the line except at one of the two ends. Police men, or gens d'armes, on horseback, are stationed at small distances to see that all rules and regulations are properly observed. This year the most elegant and showy equipages, by far, were those belonging to the aristocracy, and the most numerous were those of the bourgeoisie, painted in dark green and gold, drawn by four jet-black horses, with gilded harness. Two footmen behind, and the coachman, were dressed in green velvet liveries, faced and trimmed with gold. Rebecca (Reche's) sister) afforded as strong a contrast in her equipage as she does in her person. Her carriage was small, light, and open, painted in blue, and drawn by four jet-black horses, with gilded harness. Two footmen behind, and the coachman, were dressed in green velvet liveries, faced and trimmed with gold. Rebecca (Reche's) sister) afforded as strong a contrast in her equipage as she does in her person. Her carriage was small, light, and open, painted in blue, and drawn by four jet-black horses, with gilded harness. Two footmen behind, and the coachman, were dressed in green velvet liveries, faced and trimmed with gold.

Two of the greatest curiosities, at this season of the year, is the gingerbread fair and the Ham fair, held on Good Friday and the Saturday and Sunday following. You must know that the great people of Paris, the aristocracy, the nobles, and the bourgeoisie, all came to the fete, and no carriage is allowed to stop or leave the line except at one of the two ends. Police men, or gens d'armes, on horseback, are stationed at small distances to see that all rules and regulations are properly observed. This year the most elegant and showy equipages, by far, were those belonging to the aristocracy, and the most numerous were those of the bourgeoisie, painted in dark green and gold, drawn by four jet-black horses, with gilded harness. Two footmen behind, and the coachman, were dressed in green velvet liveries, faced and trimmed with gold. Rebecca (Reche's) sister) afforded as strong a contrast in her equipage as she does in her person. Her carriage was small, light, and open, painted in blue, and drawn by four jet-black horses, with gilded harness. Two footmen behind, and the coachman, were dressed in green velvet liveries, faced and trimmed with gold.

The gingerbread fair is similar to the Ham fair, but is mostly made up by the Parisians. The French are exceedingly fond of gingerbread, but must say, they cannot make it. They buy it from the bakers of the provinces. It is very bad here, and a great deal of honey is used instead, which makes the cake exceedingly tough. One booth at the fair was kept by a woman who sold gingerbread, cut into all sorts of forms. There were men and women almost the size of life, and gigantic cakes and dogs and horses and cows, and sheep, and every thing, in fact. Her customers were mostly children, who were highly delighted to raise the gingerbread, and their short red petticoats, little stiff jackets, and wooden shoes, giving them the most picturesque air in the world.

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LIGHT FROM WATER—OTHER POSITIONS VERIFIED.

To the Editors of the National Intelligencer.

GENTLEMEN: Under the courtesy extended to me by you some time since, I had, at one time, taken up my pen for the purpose of sending an answer to "Omegas," who, you will remember, published in your columns a reply—or rather a paper purporting to be a reply—to the philosophical views which you were so kind as to present to the public for me in April last; but I concluded that the matter of "Omegas" article was, in the first place, scarcely worth the trouble of a notice; and, in the second place, the terms in which the article was couched placed it rather beyond the pale of civility. The whole question is dispute between us (for the writer did not say any thing as to my own particular view) was reduced to a simple question of fact as to the patent of Henry M. Paine, which question has been settled to the satisfaction of the world, by the publication of the patent itself in "Appleton's Mechanics' Magazine," together with a notice of "Shepherd's patent," (an improvement on Paine's) in the No. of that journal for May and June, 1861. "Silliman's Annual of Scientific Discovery" for 1860, issued this year, at pages 398, '39, '40, and '41, also gives quite an accurate account of the same thing.

When Mr. Paine's method was first talked of, I was the only man in the country, I believe, other than the parties directly interested in it, who attached to it either credence or importance. I did not know, nor do I now know, Mr. Paine personally. Neither was I or am I in communication with him. I credited his invention simply because the principles from which I reason philosophically led me to foresee the result. And I again repeat that there is not in any of the positions assumed by Mr. Paine, either in respect of the catalysis of hydrogen gas, by passing it through spirals of turpentine, or as regards the conversion of water into hydrogen or into oxygen, at the will of the operator, any thing which militates against correct reason or positively ascertained fact. I know it is said by a certain set of laboratory men—who, in regard to science, are like churchmen in regard to religion, and damn every one who dares to think or pray otherwise than by customary formula, however absurd they may be to the rational mind—that Mr. Paine, in the first place, has not done what he has said he has done; and, in the second place, that, even if he has done what he claims to have accomplished, he is entitled to no credit for it; for it is either not worth a thought, or, if worth a thought, some one else did it long ago. For these kind of men, it matters not who they are, or where they are, I entertain too profound a contempt to interchange ideas with them. They first deny that a thing has been done, and, when driven from this position by the fact, they pronounce the idea old or else valueless. This is the way they show their logic, their morality, and their eminent philosophical acquirements. We have an instance of this in "Silliman's Annual," just quoted, in reference to Mr. Paine. Turn to page 18 of "Notes by the Editors," and you will find this language, viz:

"This claim, (Mr. Paine's), so entirely at variance with the principles of chemistry, is, we think, disbelieved in whole or in part by all scientific men in the country, and before the truth shall be established by the only proper tribunal, we are not disposed to give it credit."

Now turn to page 240 of the book, and you will find these same "Editors" saying:

"Mr. Paine maintains that the turpentine undergoes no consumption; but that the gas, in its passage through it, is catalyzed, or changed from simple hydrogen to a more illuminating gas, by contact with its original properties, an effect by no means without a parallel in chemistry."

I have underlined the plain contradiction in which the Editors have involved themselves. We know, from the beautiful papers and experiments of Berzelius and others on catalysis, to be found published in the "Annales de Chimie," that the precise result claimed by Mr. Paine, so far from being at "variance" with chemical law, is exactly in accordance with the law. But let us see something more of the absurdity of the "Editors" on this question. Mr. Paine's invention is so "entirely at variance with the principles of chemistry" that it is not to be believed," say these gentlemen; and yet, at page 241 of their book, they give us the following authoritative statement, headed:

"Gaseous Transformation of Water."

"At the meeting of the Royal Society on January 24, 1860, a communication was read from Mr. Daniel Paret, on the gaseous transformation of water, by means of a pile in two separate compartments, having no electric communication between them, the upper being composed of copper, and giving in the one oxygen alone, and hydrogen alone in the other. After premising that, at the present time, it is the generally-received opinion that water is a compound of oxygen and hydrogen, the author states that he now brings forward an experiment which proves, not that water is a compound, but really a simple element, the generator of oxygen and hydrogen, and every year they became more and more popular. At last came the Revolution of '93, and the convents were suppressed. After the 18th brumaire, the police, in order to amuse the public and distract attention, tried to revive, under a new pretext, the ancient musical and religious pilgrimages to Longchamps. They hired carriages to drive along the Champs Elysees, the occupation being to exercise carriages and amusements. And thus the start was given to the annual procession of carriages and horsemen, extending from the Place de la Concorde to the Bois de Boulogne, serves as a pretext for the display of spring fashions, and eccentricities which would be tolerated nowhere else.

This year the weather was unusually warm, and the display brilliant. The great people of Paris, the aristocracy, the nobles, and the bourgeoisie, all came to the fete, and no carriage is allowed to stop or leave the line except at one of the two ends. Police men, or gens d'armes, on horseback, are stationed at small distances to see that all rules and regulations are properly observed. This year the most elegant and showy equipages, by far, were those belonging to the aristocracy, and the most numerous were those of the bourgeoisie, painted in dark green and gold, drawn by four jet-black horses, with gilded harness. Two footmen behind, and the coachman, were dressed in green velvet liveries, faced and trimmed with gold. Rebecca (Reche's) sister) afforded as strong a contrast in her equipage as she does in her person. Her carriage was small, light, and open, painted in blue, and drawn by four jet-black horses, with gilded harness. Two footmen behind, and the coachman, were dressed in green velvet liveries, faced and trimmed with gold.

Two of the greatest curiosities, at this season of the year, is the gingerbread fair and the Ham fair, held on Good Friday and the Saturday and Sunday following. You must know that the great people of Paris, the aristocracy, the nobles, and the bourgeoisie, all came to the fete, and no carriage is allowed to stop or leave the line except at one of the two ends. Police men, or gens d'armes, on horseback, are stationed at small distances to see that all rules and regulations are properly